REMARKS

Claims 1-3 are pending in the application. Claim 1 is amended. No new matter is presented. The above remarks are considered by Applicants to overcome each objection and rejection raised by the Examiner and to place the application in condition for allowance. An early Notice of Allowance is therefore requested.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Raymond (Patent No. 5,775,331). The Examiner takes the position that Raymond discloses all the features recited in claims 1-3. Applicants respectfully disagree.

Raymond is directed to an apparatus and method for stimulating and locating a nerve. Raymond discloses a stimulating probe having an array of electrodes, an automatic control means and a response detecting means. The response feedback is analyzed according to an electrode selecting algorithm so that ongoing stimulation is restricted to a subset of the array which produces a criterion response with the least magnitude of stimulation.

As mentioned above, Raymond is directed to an arrangement and method for locating and stimulating an intact nerve. Specifically, Raymond discloses the stimulation of the nerve after the localization of the nerve. The located intact nerve is stimulated at a target area. Then, the stimulation of the nerve occurs through the activation of a row of electrodes by a prescribed algorithm. Next, based on the automatic evaluation of the responses of the stimulated nerve, it is determined which electrodes successfully cause the nerve to react and in which regions of the target area the nerve is found. Although Raymond discloses the location of the intact nerve, Raymond does not teach or suggest locating a targeted diseased tissue. Thus, the method disclosed by Raymond is not for a surgical procedure but rather exclusively for a therapeutic procedure.

In contrast to the teachings of Raymond, the claimed invention does not continuously stimulate the nerves but differentiates the response signals of the diseased tissue in contrast to healthy tissue. To achieve the results of the claimed invention, a probe is positioned in the diseased tissue and from there out the tissue selection is started. Based on the evaluation to the responses to the stimulation, the diseased tissue component portions and the healthy tissue can be differentiated. If an unexpected stimulation response is received, an appropriate
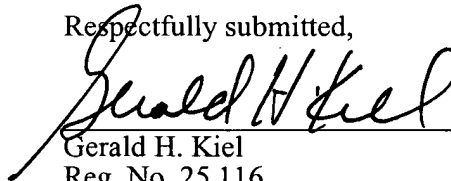
treatment over the same probe is carried out, otherwise the probe is repositioned and the tissue selection is restarted. In contrast to the claimed invention, Raymond discloses intact nerves and stimulates them. In the claimed invention, the diseased tissue is selected, in which different excitation signals are supplied and evaluated. As a result, healthy tissue is not damaged. Thus, it is submitted that Raymond does not disclose a device or method for handling diseased tissue.

In addition, Raymond does not teach or suggest the removal of diseased tissue. Raymond neither teaches not suggests a method for the selection and/or removable of diseased tissue. Claim 1 is amended to more clearly recite this feature. Thus, in view of the above distinctions and the amendment to claim 1, Applicants request the withdrawal of the rejection of claim 1 under 35 U.S.C. 102(b).

Claims 2 and 3 are dependent upon claim 1. Therefore, it is submitted that claims 2 and 3 recite patentable subject matter for at least the reasons mentioned above. Accordingly, Applicants request the withdrawal of the rejection of claims 2 and 3 under 35 U.S.C. 102(b).

In view of the above remarks, Applicants submit that claims 1-3 recite subject matter that is neither taught nor suggested by the applied references. Thus, for the reasons presented above, claims 1-3 are believed by Applicants to define patentable subject matter and should be passed to issue at the earliest possible time. A Notice of Allowance is requested.

Respectfully submitted,

Gerald H. Kiel
Reg. No. 25,116

REED SMITH LLP
599 Lexington Avenue
New York, NY 10022
(P) 212-521-5400
Attorney for Applicants

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